

## PATENT COOPERATION TREATY

## PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 08 FEB 2006

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Applicant's or agent's file reference L345 0002		FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/CA2004/001728		International filing date (day/month/year) 22 September 2004 (22-09-2004)	Priority date (day/month/year) 23 September 2003 (23-09-2003)
International Patent Classification (IPC) or national classification and IPC IPC: B65D 55/16 (2006.01)			
Applicant LEPOSAVIC, VASO ET AL			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 40px;">a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>8</u> sheets, as follows:</p> <p style="margin-left: 80px;"><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 80px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. 1 and the Supplemental Box.</p> <p style="margin-left: 40px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input checked="" type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 25 April 2005 (25-04-2005)		Date of completion of this report 27 January 2006 (27-01-2006)	
Name and mailing address of the IPEA/CA Canadian Intellectual Property Office Place du Portage I, C114 - 1st Floor, Box PCT 50 Victoria Street Gatineau, Quebec K1A 0C9 Facsimile No.: 001(819)953-2476		Authorized officer  Gregory Myslicki (819) 956-5824	

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# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/CA2004/001728

## Box No. I Basis of the report

1. With regard to the language, this report is based on:

☒ the international application in the language in which it was filed

☐ a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of:

☐ international search (Rules 12.3(a) and 23.1(b))

☐ publication of the international application (Rule 12.4(a))

☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☐ the international application as originally filed/furnished

☒ the description:

☒ pages 1-23

as originally filed/furnished

☐ pages\*

received by this Authority on

☐ pages\*

received by this Authority on

☒ the claims:

☐ pages

as originally filed/furnished

☐ pages\*

as amended (together with any statement) under Article 19

☒ pages\* 24-29

received by this Authority on

11 October 2005

☐ pages\*

received by this Authority on

☒ the drawings:

☒ pages 1-7, 9-14

as originally filed/furnished

☒ pages\* 8

received by this Authority on

18 May 2005

☐ pages\*

received by this Authority on

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing *(specify)*:

☐ any table(s) related to sequence listing *(specify)*:

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(e)).

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing *(specify)*:

☐ any table(s) related to sequence listing *(specify)*:

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. II      Priority

1.    ☐ This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
  - ☐ copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
  - ☐ translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2.    ☐ This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

The priority documents have been found to provide support for the claims in the instant application.

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Box No. IV Lack of unity of invention

1. ☒ In response to the invitation to restrict or pay additional fees the applicant has, within the applicable time limit:
  - ☐ restricted the claims
  - ☐ paid additional fees
  - ☐ paid additional fees under protest and, where applicable, the protest fee
  - ☐ paid additional fees under protest but the applicable protest fee was not paid
  - ☒ neither restricted the claims nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:
  - ☐ complied with
  - ☒ not complied with for the following reasons:

Claims 1 to 24 and 39 to 57 are directed to a container and cap combination having a cap retainer, wherein the cap retainer comprises a slot in a sidewall of the container body, the slot having an open end to allow the cap to be slidably inserted therein for storage.

Claims 25 to 38 are directed to a container and cap combination having a cap retainer, wherein the cap retainer comprises a circularly symmetric depression in the container body that allows the cap to be non-slidably inserted therein for storage.

4. Consequently, this report has been established in respect of the following parts of the international application:

- ☒ all parts
- ☐ the parts relating to claims Nos.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/CA2004/001728**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims	<u>1-24, 27, 29, 32, 36, 39-57</u>	YES
	Claims	<u>25, 26, 28, 30, 31, 33-35, 37, 38</u>	NO
Inventive step (IS)	Claims	<u>1-24, 32, 39-57</u>	YES
	Claims	<u>25-31, 33-38</u>	NO
Industrial applicability (IA)	Claims	<u>1-57</u>	YES
	Claims	<u>NONE</u>	NO

**2. Citations and explanations (Rule 70.7)****Reference is made to the following document:**

D1 US-A-5,244,106 (TAKACS) 14-09-1993

**Novelty:**

Claims 25, 26, 28, 30, 31, 33-35, 37 and 38 lack novelty in the sense of PCT Article 33(2) having regard to document D1.

Document D1, which is considered the most pertinent prior art, discloses a container (bottle 1, 101, 501, 601) and cap (cap 8, 108, 508, 608) combination, the container having a container body wall 10, 110, 510, 610) which comprises a cap retainer for storing the cap in a storage configuration. The cap retainer of D1 comprises a circularly symmetric depressed region (well 16, 116, 516, 616) for receiving the cap, the depressed region having a depth that is greater than (Figs. 4, 8 and 9) or equal (Figs. 1 and 2) to a height of a side portion of the cap and the depressed region is located between a plurality of lobes (col. 7, lines 25 to 30) which are angularly spaced apart around a circumference of the depressed region. Each of the lobes in D1 comprises a curved contact surface which engages the side portion of the cap for securing the cap in its storage configuration and wherein the container comprises channels (finger wells 18, 20, 118, 518, 618) between each of the lobes for permitting finger access to remove the cap from its storage configuration. The depressed region in D1 is located in a base of the container (Figs. 1, 2, 4, 8 and 9). The cap of D1 is secured in its storage configuration by pressure (col. 7, lines 4 to 6 and 67 to 68) associated with elastic deformation of at least one of: the cap and the lobes. Thus, claims 25, 26, 28, 30, 31 and 33 do not meet the criteria of PCT Article 33(2) having regard to novelty.

Document D1 further discloses an embodiment wherein a side portion of the cap comprises one or more (col. 3, lines 56 to 57; col. 7, lines 36 to 38; col. 9, lines 36 to 39) integrally formed radially extending projections (lip 109, 309, 409, 509; col. 9, lines 36 to 39; col. 10, lines 22 to 33; col. 10, lines 48 to 63), each of the projections spanning an arcuate segment which is less than a circumference of the side portion of the cap; and wherein each of the projections engages a corresponding contact surface of the circularly symmetric depressed region for storing the cap in its storage configuration. Thus, claims 34, 35, 37 and 38 do not meet the criteria of PCT Article 33(2) having regard to novelty.

The prior art does not disclose nor fairly suggest a container and cap combination wherein the container has a cap retainer comprising an elongated slot defined by first and second sidewalls of the container, the slot having at least one open end which is provided with a transversely extending space between the first and second sidewalls, and the first and second sidewalls having first and second contact surfaces which engage opposing peripheral edges of the cap for storage. Further, the prior art does not disclose nor fairly suggest the range recited in claim 27, the depressed region located in a container wall, at least one of the contact surfaces of the lobes and an exterior surface of the side portion of the cap coated with a layer of an elastomeric material, and the difference in material selection of the projections and the cap. Thus, claims 1 to 24, 27, 29, 32, 36 and 39 to 57 appear to be novel in the sense of PCT Article 33(2).

(continue in supplemental box)

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

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**Supplemental Box**

In case the space in any of the preceding boxes is not sufficient.

Continuation of: **Box No. V**

**Inventive Step:**

Claims 25 to 31 and 33 to 38 lack an inventive step in the sense of PCT Article 33(3).

Given the lack of novelty of the subject matter of claims 25, 26, 28, 30, 31, 33 to 35, 37 and 38 in view of document D1, according to PCT Article 33(2) the latter also lack an inventive step in the sense of PCT Article 33(3).

The subject matter of claims 27, 29 and 36 would have been obvious to a person skilled in the art or science to which they pertain having regard to document D1 in view of common knowledge. The claimed range of the tapering angle, the location of the depression, and the selection of materials of the projections and the cap are considered to be obvious design choices. Thus, claims 27, 29 and 36 do not meet the criteria of PCT Article 33(3) having regard to inventive step.

Claims 1 to 24, 32 and 39 to 57 appear to involve an inventive step in the sense of PCT Article 33(3).

**Industrial Applicability:**

Claims 1 to 57 appear to have industrial applicability in the sense of PCT Article 33(4) because the subject matter claimed can be made or used in the industry.

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**Box No. VIII** Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 1 to 57 do not comply with Article 6 PCT. Independent claims 1, 25, 34 and 39 refer to "A container and cap combination", while dependent claims 2 to 24, 26 to 33, 35 to 38, and 40 to 57 refer to "A container according to". It appears that reference should be made to "A container and cap combination according to" in the above mentioned dependent claims.

It is suggested that the preambles of claims 12 and 13 read "1 to 11" instead of "1-11" to remain consistent with the other claims.

Claims 16, 27 and 49 do not comply with Article 6 PCT. Claimed ranges such as "0-5" (claim 16, line 2; claim 27, line 1; and claim 49, line 2) should be explicitly presented such as "0'-5'" to avoid any possible confusion.

Claims 25 and 49 are unclear and do not comply with Article 6 PCT. It is unclear to what part the term "it" (claim 26, line 3; and claim 49, line 2) refers.

Claim 34 does not comply with Article 6 PCT. Terms previously defined should be referred to using a definite article. The expression "each projection" (claim 34, line 9) should read "each of the projections".

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## WHAT IS CLAIMED IS:

1. A container and cap combination, the container having a container body which defines an interior of the container and a container opening for communication between the interior of the container and an exterior of the container and the cap being reusable to seal the container opening, the container body comprising:  
a cap retainer for storing the cap in a storage configuration when the cap is not being used to seal the opening, the cap retainer comprising a slot elongated in a longitudinal direction, the slot defined by first and second sidewalls of the container which extend in the longitudinal direction and which are spaced apart from one another in a transverse direction, the slot having at least one open end, the at least one open end providing a transversely extending space between the first and second sidewalls at a longitudinal end of the first and second sidewalls;  
wherein the first and second sidewalls comprise corresponding first and second contact surfaces which engage corresponding first and second side surfaces of the cap to secure the cap in its storage configuration within the slot and wherein the first and second side surfaces are located on opposing exterior peripheral edges of a side portion of the cap.
2. A container according to claim 1 wherein the cap is slidable in the longitudinal direction of the slot from the at least one open end of the slot to its storage configuration.
3. A container according to any one of claims 1 to 2 wherein the cap is secured in its storage configuration by frictional forces between the first and second contact surfaces and the corresponding first and second side surfaces.
4. A container according to any one of claims 2 to 3 wherein the cap is secured in its storage configuration by pressure associated with elastic deformation of at least one of: the cap and the first and second sidewalls.
5. A container according to any one of claims 1 to 4 wherein at least one of the first and second sidewalls comprises at least one sidewall point and wherein a transverse dimension of the slot is narrower in a region of the at least one sidewall point when compared to a transverse dimension of the slot in a region of the first and second contact surfaces.
6. A container according to claim 5 wherein the at least one sidewall point is located between the at least one open end of the slot and the region of the first and second contact surfaces.
7. A container according to any one of claims 5 to 6 wherein the first sidewall comprises a first sidewall point, the second sidewall comprises a second sidewall point and the first and second sidewall points are located directly, transversely across the slot from one another.



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8. A container according to any one of claims 5 to 7 wherein the first and second sidewalls each comprise a pair of sidewall points and the first and second contact surfaces are located between the pairs of sidewall points.
9. A container according to any one of claims 5 to 8 wherein each of the first and second sidewalls comprises a plurality of sidewall points and a plurality of contact surfaces and each contact surface is located between a pair of the sidewall points.
10. A container according to claim 1 wherein the slot comprises a first region between the first and second contact surfaces and a second region between the first region and the at least one open end of the slot and wherein the second region is narrower in the transverse direction than the first region .
11. A container according to claim 10 wherein the cap is slidable in the longitudinal direction from the at least one open end of the slot past the second region to the first region.
12. A container according to any one of claims 1-11 wherein the first and second contact surfaces are curved to correspond to a shape of the side portion of the cap.
13. A container according to any one of claims 1-11 wherein the cap retainer comprises a wall of the container which extends in the transverse direction between the first and second sidewalls at one end of the slot.
14. A container according to claim 13 wherein the transversely extending wall comprises an additional contact surface which engages the cap for securing the cap in its storage configuration.
15. A container according to claim 14 wherein the first and second contact surfaces of the sidewalls and the contact surface of the transversely extending wall are curved to correspond to a shape of the side portion of the cap.
16. A container according to any one of claims 1 to 15 wherein the first and second sidewalls comprise an outwardly opening tapering angle in a range of 0-5°.
17. A container according to any one of claims 1 to 16 wherein the cap comprises a lip which projects radially outwardly from its side portion and wherein each of the first and second sidewalls comprises a corresponding groove for receiving the lip when the cap is in its storage configuration.
18. A container according to any one of claims 1 to 17 wherein the first and second sidewalls extend inwardly from a container wall and a base of the slot is depressed relative to the container wall.

**AMENDED SHEET**

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19. A container according to any one of claims 1 to 17 wherein the first and second sidewalls extend outwardly from a container wall and a base of the slot is level with the container wall.
20. A container according to any one of claims 1 to 17 wherein the first and second sidewalls extend inwardly from a container base and a base of the slot is depressed relative to the container base.
21. A container according to any one of claims 1 to 17 wherein the first and second sidewalls extend outwardly from a container base and a base of the slot is level with the container base.
22. A container according to any one of claims 1 to 21 wherein at least one of the first and second contact surfaces and the first and second side surfaces are coated with a layer of an elastomeric material.
23. A container according to claim 22 wherein the cap is secured in its storage configuration by frictional forces between the layer of elastomeric material and one of the first and second contact surfaces and the first and second side surfaces.
24. A container according to any one of claims 22 to 23 wherein the cap is secured in its storage configuration by pressure associated with elastic deformation of the elastomeric material.
25. A container and cap combination, the container having a container body which defines an interior of the container and a container opening for communication between the interior of the container and an exterior of the container and the cap being reusable to seal the container opening, the container body comprising:
  - a cap retainer for storing the cap in a storage configuration when the cap is not being used to seal the opening, the cap retainer comprising a circularly symmetric depressed region for receiving the cap, the depressed region having a depth that is greater than or equal to a height of a side portion of the cap and the depressed region located between a plurality of lobes which are angularly spaced apart around a circumference of the depressed region;
  - wherein each of the lobes comprises a contact surface which engages the side portion of the cap for securing the cap in its storage configuration and wherein the container comprises channels between each of the lobes for permitting finger access to remove the cap from its storage configuration.
26. A container according to claim 25 wherein each of the contact surfaces is oriented at a tapering angle such that each of the contact surfaces extends radially away from a center of the depressed region as it extends outwardly from the depressed region.
27. A container according to claim 26 wherein the tapering angle is in a range of 0-5°.

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28. A container according to any one of claims 25 to 27 wherein the depressed region is located in a base of the container.
29. A container according to any one of claims 25 to 27 wherein the depressed region is located in a container wall.
30. A container according any one of claims 25 to 29 wherein the cap is secured in its storage configuration by frictional forces between the contact surfaces and an exterior surface of the side portion of the cap.
31. A container according to any one of claims 25 to 30 wherein the cap is secured in its storage configuration by pressure associated with elastic deformation of at least one of: the cap and the lobes.
32. A container according to any one of claims 25 to 29 and 31 wherein at least one of the contact surfaces of the lobes and an exterior surface of the side portion of the cap is coated with a layer of an elastomeric material.
33. A container according to any one of claims 30 to 32 wherein the contact surfaces are curved to correspond to a shape of the side portion of the cap.
34. A container and cap combination, the container having a container body which defines an interior of the container and a container opening for communication between the interior of the container and an exterior of the container and the cap being reusable to seal the container opening, the container body comprising:
  - a cap retainer for storing the cap in a storage configuration when the cap is not being used to seal the opening, the cap retainer comprising a circularly symmetric depressed region in the container body for receiving the cap;
  - wherein a side portion of the cap comprises one or more radially extending projections, each projection spanning an arcuate segment which is less than a circumference of the side portion of the cap; and
  - wherein each of the radially extending projections engages a corresponding contact surface of the circularly symmetric depressed region for securing the cap in its storage configuration.
35. A container according to claim 34 wherein each of the radially extending projections are integrally formed with the cap.
36. A container according to claim 34 wherein each of the radially extending projections is fabricated from an elastomeric material that is different from the material from which the cap is formed.
37. A container according to any one of claims 34 to 36 wherein the cap is secured in its storage configuration by frictional forces between the contact surfaces and the radially extending projections.

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38. A container according to any one of claims 34 to 37 wherein the cap is secured in its storage configuration by pressure associated with elastic deformation of at least one of: the side portion of the cap, the radially extending projections of the cap and the contact surfaces.
39. A container and cap combination, the container having a container body which defines an interior of the container and a container opening for communication between the interior of the container and an exterior of the container and the cap being reusable to seal the container opening, the container body comprising a cap retainer, the cap retainer comprising a pair of opposed sidewalls which define a slot having at least one open end, the at least one open end providing a transversely extending space between the opposed sidewalls at a longitudinal end of the opposed sidewalls, the slot comprising a cap receiving area and a narrowed throat located between the cap receiving area and the at least one open end, a transverse dimension of the narrowed throat being smaller than a transverse dimension of the cap and the transverse dimension of the narrowed throat being smaller than a transverse dimension of the cap receiving area, wherein each of the sidewalls comprises a contact surface which engages the cap when the cap is located in the cap receiving area for securing the cap therein.
40. A container according to claim 39 wherein the cap is slidable in a longitudinal direction from the at least one open end of the slot to the cap receiving area.
41. A container according to any one of claims 39 to 40 wherein the cap is secured in its storage configuration, at least in part, by frictional forces between the contact surfaces and an exterior surface of a side portion of the cap.
42. A container according to any one of claims 39 to 41 wherein the cap is secured in its storage configuration, at least in part, by pressure associated with elastic deformation of at least one of: the cap and the sidewalls.
43. A container according to any one of claims 39 to 42 wherein the slot comprises a plurality of cap receiving areas and a plurality of narrowed throats having transverse dimensions smaller than a transverse dimension of the cap and smaller than transverse dimensions of the cap receiving areas and wherein at least one of the cap receiving areas is located between a pair of the narrowed throats.
44. A container according to claim 43 wherein each of the cap receiving areas is located between a pair of the narrowed throats.
45. A container according to any one of claims 39 to 43 wherein the contact surfaces are curved to correspond to a shape of the cap.
46. A container according to any one of claims 39 to 45 wherein the cap retainer comprises a wall of the container which extends transversely between the sidewalls at one end of the slot.

**AMENDED SHEET**

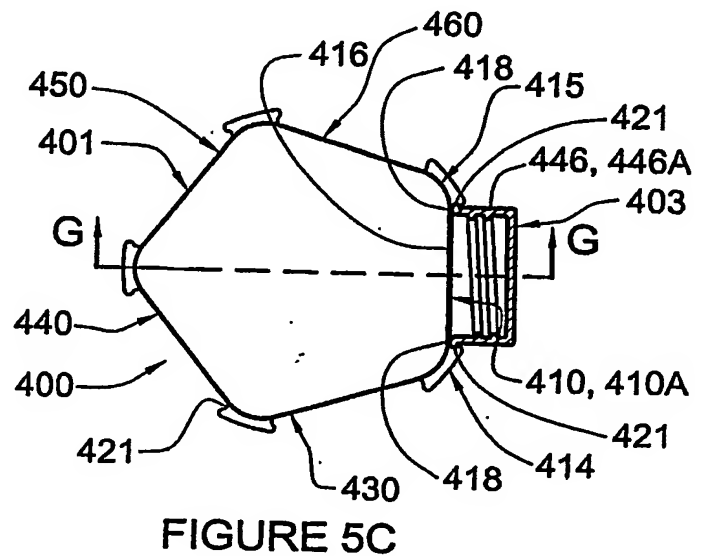
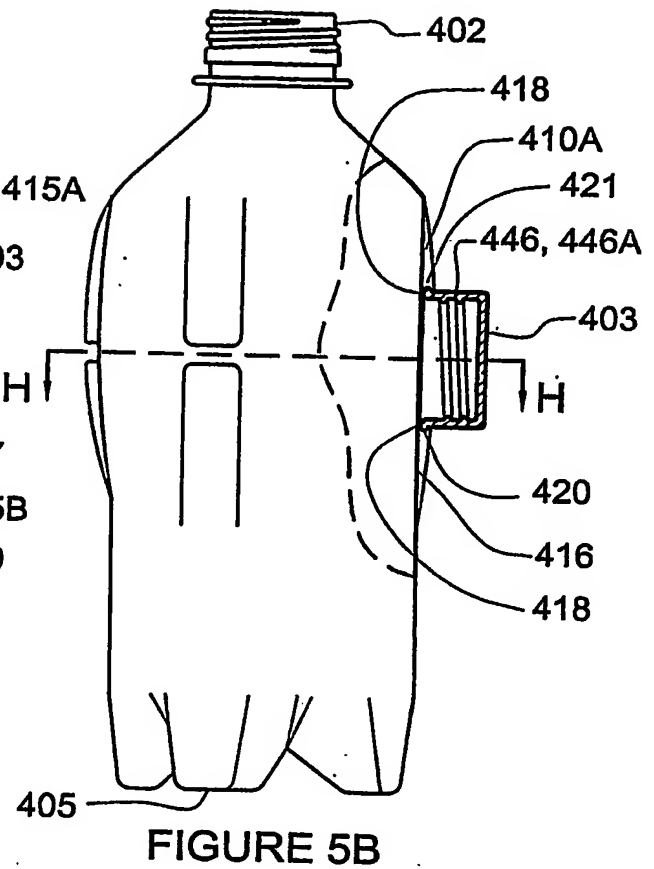
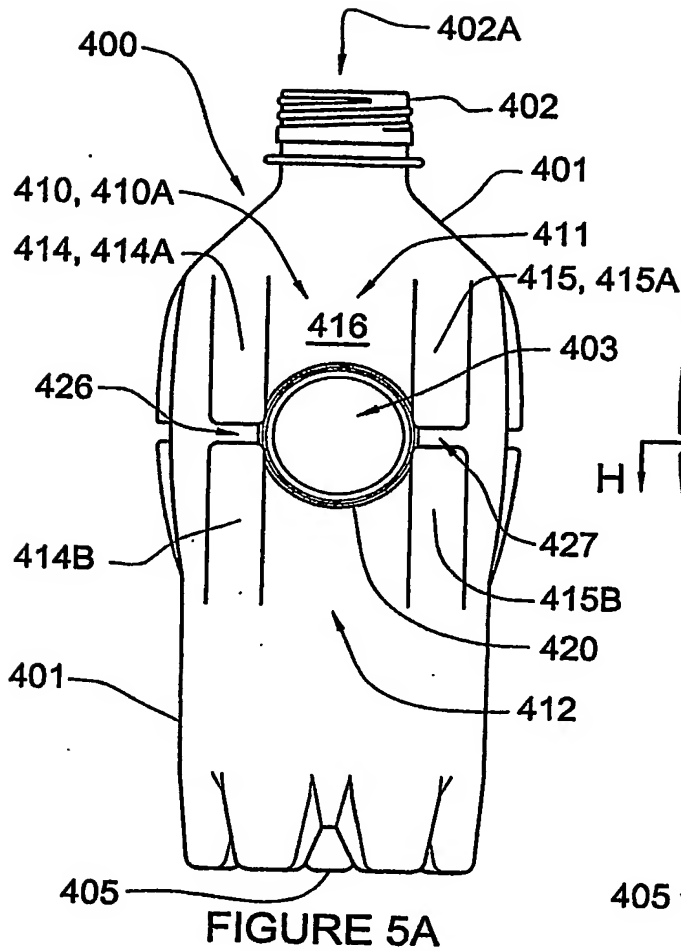
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47. A container according to claim 46 wherein the transversely extending wall comprises an additional contact surface which engages the cap for securing the cap in the cap receiving area.
48. A container according to claim 47 wherein the contact surfaces of the sidewalls and the contact surface of the transversely extending wall are curved to correspond to a shape of the cap.
49. A container according to any one of claims 39 to 49 wherein each of the sidewalls extends transversely as it extends outwardly at a tapering angle in a range of 0-5°.
50. A container according to any one of claims 39 to 49 wherein the cap comprises a lip which projects radially outwardly from a side portion thereof and wherein each of the sidewalls comprises a corresponding groove for receiving the lip when the cap is in its storage configuration.
51. A container according to any one of claims 39 to 50 wherein the sidewalls extend inwardly from a container wall and a base of the slot is depressed relative to the container wall.
52. A container according to any one of claims 39 to 50 wherein the sidewalls extend outwardly from a container wall and a base of the slot is level with the container wall.
53. A container according to any one of claims 39 to 50 wherein the sidewalls extend inwardly from a container base and a base of the slot is depressed relative to the container base.
54. A container according to any one of claims 39 to 50 wherein the sidewalls extend outwardly from a container base and a base of the slot is level with the container base.
55. A container according to any one of claims 39 to 54 wherein at least one of the contact surfaces and a side portion of the cap is coated with a layer of an elastomeric material.
56. A container according to claim 55 wherein the cap is secured in the cap receiving area by frictional forces between the layer of elastomeric material and the contact surfaces.
57. A container according to any one of claims 55 to 56 wherein the cap is secured in its storage configuration by pressure associated with elastic deformation of the elastomeric material.

**Abstract**

A container (100) having a container opening (102A) and a reusable cap (103) for sealing the container opening has a cap retainer (110) for storing the cap in a storage configuration when the cap is not being used to seal the opening. The cap retainer may be provided by a slot (110A) defined by a pair of sidewalls (114, 115). The slot has at least one open end (111). Each of the sidewalls provides a contact surface which engages the cap for securing the cap in its storage configuration within the slot.

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